

**4VAC15-20-130. Definitions and Miscellaneous: In General; Endangered and threatened species; adoption of federal list; additional species enumerated.**

**Summary:**

The proposal is to update the date reference to the federal list of endangered and threatened wildlife species.

**Proposed language of amendment**

**4VAC15-20-130. Endangered and threatened species; adoption of federal list; additional species enumerated.**

A. The board hereby adopts the Federal Endangered and Threatened Species List, Endangered Species Act of December 28, 1973 (16 USC §§1531-1543), as amended as of ~~August 4, 2016~~ February 26, 2019, and declares all species listed thereon to be endangered or threatened species in the Commonwealth. Pursuant to Code § 29.1-103.12, the director of the department is hereby delegated authority to propose adoption of modifications and amendments to the Federal Endangered and Threatened Species List, in accordance with the procedures of Code §§ 29.1-501 and 29.1-502.

B. In addition to the provisions of subsection A, the following species are declared endangered or threatened in this Commonwealth, and are afforded the protection provided by Article 6 (§29.1-563 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia:

1. Fish:

Endangered:

Dace, Tennessee	Phoxinus tennesseensis
Darter, sharphead	Etheostoma acuticeps
Darter, variegate	Etheostoma variatum
Sunfish, blackbanded	Enneacanthus chaetodon

Threatened:

Darter, Carolina	Etheostoma collis
Darter, golden	Etheostoma denoncourti
Darter, greenfin	Etheostoma chlorbranchium
Darter, sickle	Percina williamsi
Darter, western sand	Ammocrypta clara
Madtom, orange fin	Noturus gilberti
Paddlefish	Polyodon spathula
Shiner, emerald	Notropis atherinoides
Shiner, steelcolor	Cyprinella whipplei
Shiner, whitemouth	Notropis alborus

2. Amphibians:

Endangered:

Salamander, eastern tiger	Ambystoma tigrinum
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Threatened:

Salamander, Mabee's	Ambystoma mabeei
Treefrog, barking	Hyla gratiosa

3. Reptiles:

Endangered:

Rattlesnake, canebrake (Coastal Plain population of timber rattlesnake)	<i>Crotalus horridus</i>
Turtle, bog	<i>Glyptemys muhlenbergii</i>
Turtle, eastern chicken	<i>Deirochelys reticularia reticularia</i>

Threatened:

Lizard, eastern glass	<i>Ophisaurus ventralis</i>
Turtle, wood	<i>Glyptemys insculpta</i>

4. Birds:

Endangered:

Plover, Wilson's	<i>Charadrius wilsonia</i>
Rail, black	<i>Laterallus jamaicensis</i>
Wren, Bewick's	<i>Thryomanes bewickii</i>

Threatened:

Falcon, peregrine	<i>Falco peregrinus</i>
Shrike, loggerhead	<i>Lanius ludovicianus</i>
Sparrow, Bachman's	<i>Aimophila aestivalis</i>
Sparrow, Henslow's	<i>Ammodramus henslowii</i>
Tern, gull-billed	<i>Sterna nilotica</i>

5. Mammals:

Endangered:

Bat, Rafinesque's eastern big-eared	<i>Corynorhinus rafinesquii macrotis</i>
Bat, little brown	<i>Myotis lucifugus</i>
Bat, tri-colored	<i>Perimyotis subflavus</i>
Hare, snowshoe	<i>Lepus americanus</i>
Shrew, American water	<i>Sorex palustris</i>
Vole, rock	<i>Microtus chrotorrhinus</i>

6. Molluscs:

Endangered:

Coil, rubble	<i>Helicodiscus lirellus</i>
Coil, shaggy	<i>Helicodiscus diadema</i>
Deertoe	<i>Truncilla truncata</i>
Elephantear	<i>Elliptio crassidens</i>
Elimia, spider	<i>Elimia arachnoidea</i>
Floater, brook	<i>Alasmodonta varicosa</i>
Ghostsnailed, thankless	<i>Holsingeria unthanksensis</i>
Heelsplitter, Tennessee	<i>Lasmigona holstonia</i>
Lilliput, purple	<i>Toxolasma lividus</i>
Mussel, slippershell	<i>Alasmodonta viridis</i>
Pigtoe, Ohio	<i>Pleurobema cordatum</i>
Pigtoe, pyramid	<i>Pleurobema rubrum</i>
Springsnail, Appalachian	<i>Fontigens bottimeri</i>
Springsnail (no common name)	<i>Fontigens morrisoni</i>
Supercoil, spirit	<i>Paravitrea hera</i>

Threatened:

Floater, green	<i>Lasmigona subviridis</i>
Papershell, fragile	<i>Leptodea fragilis</i>
Pigtoe, Atlantic	<i>Fusconaia masoni</i>

Pimpleback	Quadrula pustulosa pustulosa
Pistolgrip	Tritogonia verrucosa
Riversnail, spiny	Io fluvialis
Sandshell, black	Ligumia recta
Supercoil, brown	Paravitrea septadens

7. Arthropods:

Threatened:

Amphipod, Madison Cave	Stygobromus stegerorum
Pseudotremia, Ellett Valley	Pseudotremia cavernarum
Xystodesmid, Laurel Creek	Sigmoria whiteheadi

C. It shall be unlawful to take, transport, process, sell, or offer for sale within the Commonwealth any threatened or endangered species of fish or wildlife except as authorized by law.

D. The incidental take of certain species may occur in certain circumstances and with the implementation of certain conservation practices, as described below:

Species	Location	Allowable Circumstances	Required Conservation Measures	Expected Incidental Take
Little brown bat  Tri-colored bat	Statewide	Human health risk – need for removal of individual animals from human-habited structures	Between May 15 and August 31, no exclusion of bats from maternity colonies, except for human health concerns.  DGIF-permitted nuisance wildlife control operator with DGIF-recognized certification in techniques associated with removal of bats  Use of exclusion devices that allow individual animals to escape  Manual collection of individual animals incapable of sustaining themselves; transport to a willing and appropriately-permitted wildlife rehabilitator.	Little to no direct lethal taking expected
		Public safety or property damage risk –need for tree removal, application of prescribed fire, or other land management actions affecting known roosts;	Hibernacula: no tree removal, use of prescribed fire, or other land management action within a 250-foot radius buffer area from December 1 through April 30. Between September 1 and November 30, increase	Little to no direct lethal taking expected

		<p>removal of animals from known roosts.</p>	<p>the buffer to a 1/4-mile radius with the following conditions: for timber harvests greater than 20 acres, retain snags and wolf trees (if not presenting public safety or property risk) and small tree groups up to 15 trees of 3-inch diameter at breast height (dbh) or greater, 1 tree group per 20 acres. Otherwise, document the need (public safety, property damage risk) for tree removal during this period and verify that no known roost trees exist in the buffer area. Tree removal and prescribed fire are permitted outside of these dates.</p> <p>Known Roost Trees: no tree removal, use of prescribed fire, or other land management action within 150-foot radius buffer area from June 1 through July 31, if possible. Otherwise, document public safety or property damage risk.</p> <p>DGIF-permitted nuisance wildlife control operator with DGIF-recognized certification in techniques associated with removal of bats</p> <p>Use of exclusion devices that allow individual animals to escape</p> <p>Manual collection of individual animals incapable of sustaining themselves; transport to a willing and appropriately-permitted wildlife rehabilitator.</p>	
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		Facility or project operations when conducted in accordance with a DGIF-approved plan associated with these species.	<p>Development and implementation of a plan that avoids, minimizes and mitigates incidental take associated with an otherwise lawful activity.</p> <p>The plan shall include, but not be limited to, documenting the specific condition/action, the specific mitigation to be taken, and the expected incidental take.</p>	Little to no direct lethal taking expected
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**Rationale:**

***Adoption of the updated and modified federal list of endangered and threatened wildlife species:*** The Board's adoption of the most current federal list is essential to clarifying the state and federal status of each affected species and to ensuring compliance with our Cooperative Agreements with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service regarding interagency management of these species.